

THIS DECLARATION OF TRUST is made this 14th day of ^{Month} April, 1995, at 9-11 Millbrook Road, Wayland in the County of Middlesex and Commonwealth of Massachusetts by Beth A. Schofield, designee of Wayland Housing Associates, Inc. with an address at 106 Main Street, Wayland, MA 01778 and by Mary Kowalski, having an address at Millbrook Affordable Housing Condominium, 9 Millbrook Road, Wayland, MA 01778 (hereinafter collectively called the "Trustees," or "Trustee" where reference to a single Trustee is appropriate, which terms and any pronouns referring thereto shall be deemed to include their successors in trust hereunder).

ARTICLE I

NAME OF TRUST

The trust (the "Trust") hereby created shall be known as the Millbrook Affordable Housing Condominium Trust, and under that name, so far as legal, convenient and practicable, shall all business carried on by the Trustees be conducted and shall all instruments in writing by the Trustees be executed.

ARTICLE II

THE TRUST AND ITS PURPOSES

Section 2.1. General Purposes as per G.L.C. 183A

All of the rights and powers in and with respect to the common areas and facilities of the Millbrook Affordable Housing Condominium (the "Condominium"), 9-11 Millbrook Road, Wayland, Massachusetts, 01778, established by a Master Deed (the "Master Deed") recorded herewith in the Middlesex South District Registry of Deeds (hereinafter referred to as the "Registry of Deeds"), which are by virtue of provisions of Chapter 183A of the Massachusetts General Laws conferred upon or exercisable by the organization of unit owners of the Condominium, and all property, real and personal, tangible and intangible, conveyed to the Trustees hereunder shall vest in the Trustees as joint tenants with rights of survivorship as trustees of the Trust, in trust to exercise, manage, administer and dispose of the same and to receive the income therefrom for the benefit of the owners of record from time to time of the units of the Condominium (the "Unit Owners"), according to the schedule of undivided beneficial interests in the common areas and facilities (hereinafter referred to as the "beneficial interests") set forth in the Master Deed and in accordance with the provisions of said Chapter 183A, the Trust being the organization of the unit owners established pursuant to the provisions of Section 10 of said Chapter 183A for the purposes therein set forth.

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Section 2.2. Trust and Not Partnership

It is hereby expressly declared that a trust and not a partnership has been created by this Declaration of Trust and that the Unit Owners are beneficiaries of the Trust, and not partners or associates nor in any other relation whatever between themselves with respect to the Trust Property (defined in Section 5.1 below), and hold no relation to the Trustees other than that of beneficiaries of the Trust, with only such rights as are conferred upon them as such beneficiaries hereunder and under and pursuant to the provisions of said Chapter 183A.

ARTICLE III

THE TRUSTEES

Section 3.1. Number of Trustees; Term of Trustees; Vacancies; Procedure for Appointing Trustees

A. There shall at all times be two (2) Trustees. A Trustee shall be a Unit Owner. The Unit Owners of each Unit shall appoint one person to serve as Trustee. In the event of a sale of a Unit, the term of that Unit's Trustee shall automatically terminate upon the recording of the deed and the new Unit Owners of that Unit shall simultaneously appoint a new Trustee evidenced by a Certificate of Appointment recorded with said deed.

B. If and whenever the number of such Trustees shall become less than two (2) a vacancy or vacancies in said office shall be deemed to exist. Whenever a vacancy shall arise by reason of the resignation, removal or other cessation of service by a Trustee, Unit Owners from the Unit which appointed the Trustee who vacated his position, shall appoint a replacement Trustee. If the Unit Owners entitled to appoint said Trustee have not within thirty (30) days after the occurrence of any such vacancy made such appointment, then the sole remaining Trustee shall appoint a Unit Owner from the other Unit. Each appointment to fill a vacancy, other than an appointment by court proceeding as hereinafter provided, or sale of the Unit, shall become effective upon recording with the Registry of Deeds a certificate setting forth (a) the name(s) of the person(s) appointed to act as Trustee, such certificate to be signed (i) by any one Unit Owner, from that Unit appointing the Trustee, who certifies under oath that such appointment has been made, and (b) the acceptance of such appointment, signed and acknowledged by the person(s) so appointed. Upon the filing of such certificate, such person shall then be and become a Trustee and shall be vested with the title to the Trust Property jointly with the remaining or surviving Trustee without the necessity of any act of transfer or conveyance. If for any reason any vacancy in the office of Trustee shall continue for more than sixty (60) days and shall at the end of that time remain unfilled, a Trustee or Trustees to fill such vacancy or vacancies may be appointed by any court of

competent jurisdiction upon the application of any Unit Owner or Trustee and notice to all Unit Owners and Trustees and to such other parties, if any, in interest to whom the court may direct that notice be given. Any appointment by such court proceeding shall be effective upon recording with the Registry of Deeds of a certified copy of such decree together with an acceptance of such appointment signed and acknowledged by the person(s) so appointed. Such appointment shall have the same force and effect as an appointment made by the Unit Owners or the Trustees.

Section 3.2. Action by Majority

Except with respect to those matters for which this Declaration of Trust or the Master Deed specifically provides for action by either more or less than a majority in any matters relating to administration of the Trust and the exercise of the powers hereby conferred and conferred by the provisions of the Master Deed, the Trustees shall act by majority vote of those present at any duly called meeting at which a quorum is present, as provided in Section 5.10.A below. However, in no event shall a majority consist of less than two (2) Trustees, and, if and whenever the number of Trustees shall become less than two (2), the then remaining or surviving Trustee, if any, shall have no power or authority whatsoever to act with respect to the administration of the Trust or to exercise any of the powers hereby conferred, except as may be necessary to prevent any

wasting of the Trust Property or to prevent the Trust from becoming delinquent on, or in default of, any of the Trust's existing obligations. The Trustees may also act without a meeting by instrument signed by both the Trustees.

Section 3.3. Resignation and Removal of Trustees

Any Trustee may resign at any time by an instrument in writing, signed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds and such resignation shall take effect upon the recording of such instrument with the Registry of Deeds. By vote of Unit Owners, entitled in the aggregate to one hundred percent (100%) of the beneficial interest hereunder, any Trustee may be removed with or without cause, and the vacancy among the Trustees caused by such removal shall be filled in the manner provided in Section 3.1 above. Such removal shall become effective upon the recording with the Registry of Deeds of a certificate of removal signed by the remaining Trustees in office who certify under oath that Unit Owners holding one hundred percent (100%) of the beneficial interest hereunder have voted for such removal.

Section 3.4. Bond by Trustees

All Trustees, employees of the Trust, volunteers and others responsible for handling funds belonging to or administered by the Trust shall be bonded against dishonest acts on their part, which bond shall be obtained and maintained by the Trustees as provided in Section 5.8.F below. All expenses incident to any such bonds shall be charged as a common expense of the Condominium.

Section 3.5. Compensation of Trustees

With the approval of both Trustees, each Trustee may receive such reasonable remuneration from the Trust for his services and also additional reasonable remuneration from the Trust for extraordinary or unusual services, legal or otherwise, rendered by such Trustee on behalf of or in connection with the Trust, all as shall be from time to time fixed and determined by the Trustees, and such remuneration shall be a common expense of the Condominium. However, no person serving as a Trustee as a result of having been designated as a Trustee by the Declarant pursuant to Section 3.1.C above shall receive any compensation from the Trust for such person's services as Trustee.

Section 3.6. No Liability if Acting in Good Faith

No Trustee shall under any circumstances or in any event be held liable or accountable out of such Trustee's personal assets or be deprived of compensation by reason of any action taken, suffered or omitted in good faith or for allowing the other Trustee to have possession of the Trust's books or property, or

be so liable, accountable or deprived by reason of honest errors of judgment or mistakes of fact or law or by reason of the existence of any personal or adverse interest or by reason of anything except such Trustee's own personal and willful malfeasance.

Section 3.7. Self-Dealing

No Trustee shall be disqualified by virtue of being a Trustee from contracting or dealing with the Trustees or with one or more Unit Owners (whether directly or indirectly because of such Trustee's interest individually, or the Trustees' interest or any Unit Owner's interest in any corporation, partnership, firm, trust or other organization connected with such contracting or dealing or because of any other reason) as vendor, purchaser or otherwise; nor shall any such dealing, contract or arrangement entered into in respect of the Trust in which any Trustee shall be in any way interested be avoided; nor shall any Trustee so dealing or contracting or being so interested be liable to account for any profit realized by any such dealing, contract or arrangement by reason of such Trustee's holding office or of the fiduciary relation hereby established; provided that with respect to all of the above, the Trustee shall act in good faith and shall disclose the nature of his interest before the dealing, contract or arrangement is entered into.

Section 3.8. Indemnity

The Trustees and each of them shall be entitled to indemnity both out of the Trust Property and by the Unit Owners against any liability incurred by them or any of them in the execution hereof, including without limiting the generality of the foregoing, liabilities in contract and in tort, liabilities for damages, penalties and fines, and amounts paid for services of counsel and related expenses, except for liabilities arising out of such Trustee's intentional and willful malfeasance. Any amounts required for such indemnity in excess of the Trust Property may be assessed against the Unit Owners under this Section 3.8 and shall be a common expense of the Condominium. Each Unit Owner's share of such common expense shall be a personal liability of such Unit Owner and shall constitute a lien against such Unit Owner's Unit for all sums lawfully assessed as provided in Sections 6 and 13 of said Chapter 183A. Nothing contained in this paragraph shall be deemed, however, to limit in any respect the powers granted to the Trustees in this instrument.

ARTICLE IV

BENEFICIARIES AND THE BENEFICIAL INTEREST IN THE TRUST

Section 4.1. Percentage Interests

The beneficiaries of the Trust shall be the Unit Owners of the Condominium from time to time. The beneficial interest in

the Trust shall be divided among the Unit Owners in the percentages of undivided beneficial interest appertaining to the Units of the Condominium, all as set forth in the Master Deed.

Section 4.2. Persons to Vote as Unit Owners

The beneficial interest of each Unit of the Condominium shall be held and exercised as a unit and shall not be divided among several owners of any such Unit. To that end, whenever any Unit is owned of record by more than one person, the several owners of such Unit shall (a) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the rights appertaining to such Unit hereunder, and (b) notify the Trustees of such designation by a notice in writing signed by all of the record owners of such Unit. Any such designation shall take effect upon receipt by the Trustees and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Trustees may designate any one such owner for such purposes.

ARTICLE V

BY-LAWS

The provisions of this Article V shall constitute the By-Laws of the Trust and the organization of Unit Owners established hereby, to wit:

Section 5.1. Powers of the Trustees

The Trustees shall, subject to and in accordance with all applicable provisions of said Chapter 183A and subject to the fiduciary relationship between the Trustees and the Unit Owners under this Trust, have the absolute control and management of the Trust Property (which term as herein used insofar as applicable shall be deemed to include any monies collected by the Trustees from Unit Owners, as defined in the Master Deed, as common expenses of the Condominium, any assets or other items purchased by the Trustees or delivered to any of them as Trustees and any and all other property, real or personal, and tangible or intangible, held by the Trustees in connection with the Condominium and the right to control and manage common areas and facilities of the Condominium) as if they were the absolute owners thereof, subject only to the limitations and conditions herein and in the provisions of said Chapter 183A, and, without by the following enumeration limiting the generality of the foregoing or of any item in the enumeration, the Trustees shall have full power and uncontrolled discretion, at any time and from time to time and without the necessity of applying to any court or to the Unit Owners for leave so to do:

(i) To retain the Trust Property, or any part or parts thereof, in the same form or forms of investment in which received or acquired by them so far and so long as they shall think fit, without liability for any loss resulting therefrom;

(ii) To sell, assign, convey, transfer, exchange and otherwise deal with or dispose of the Trust Property, but not the whole thereof, free and discharged of any and all trusts, at public or private sale, to any person or persons, for cash or on credit, and in such manner, on such restrictions, stipulations, agreements and reservations as they shall deem proper, including the power to take back mortgages to secure the whole or any part of the purchase price of any of the Trust Property sold or transferred by them, and to execute and deliver any deed or other instrument in connection with the foregoing (except that the Trustees shall have no power to sell or dispose of any part of the common areas, facilities or elements of the Condominium as long as the Condominium continues in existence other than (a) a sale or disposition of an undivided percentage interest in such common areas and facilities in connection with the sale or disposition of a Unit acquired by the Trustees or (b) the granting of an interest in, or the sale or other disposition of, such common areas, facilities and elements in connection with the exercise of any other power to deal with real property specifically granted by the Master Deed or this Declaration of Trust separate and apart from the power granted by this subsection 5.1.(ii);

(iii) To purchase or otherwise acquire title to, and to rent, lease or hire from others for terms which may extend beyond the termination of the Trust any property or rights to property, real or personal, including one or both Units, and to own, manage, use and hold such property and such rights;

(iv) To sell, assign, convey, transfer, lease or otherwise deal with or dispose of any Unit, acquired by the Trustees to any person or entity, in such manner, on such restrictions, stipulations, agreements and reservations as they shall deem proper, and to execute and deliver any deed, lease or other instrument in connection with the foregoing;

(v) To enter into any arrangement for the use or occupation of any property, rights to property or facilities, including without limitation, recreational facilities, upon such terms and conditions and with such stipulations and agreements as they shall deem desirable, even if the same extend beyond the possible duration of the Trust;

(vi) To borrow or in any other manner raise such sum or sums of money or other property as they shall deem advisable in any manner and on any terms, and to evidence the same by notes, bonds, securities or other evidences of indebtedness, which may mature at a time or times, even beyond the possible duration of the Trust, and to execute and deliver any mortgage, pledge or other instrument to secure any such borrowing;

(vii) To enter into any arrangement for the use or occupation of the Trust Property, or any part or parts thereof, including, without thereby limiting the generality of the foregoing, leases, subleases, easements, licenses or concessions, upon such terms and conditions and with such stipulations and agreements as they shall deem desirable, even if the same extend beyond the possible duration of the Trust;

(viii) To invest and reinvest the Trust Property, or any parts thereof and, from time to time and as often as they shall see fit, to change investments, including the power to invest in all types of securities and other property of whatsoever nature and however denominated, all to such extent as to them shall seem proper, and without liability for loss, even though such property or such investments shall be of a character or in an amount not customarily considered proper for the investment of trust funds or which does or may not produce income;

(ix) To incur such liabilities, obligations and expenses, and to pay from the principal or the income of the Trust Property in their hands all such sums as they shall deem necessary or proper for the furtherance of the purposes of the Trust;

(x) To determine whether receipt by them constitutes principal or income or surplus and to allocate between principal and income and to designate as capital or surplus any of the funds of the Trust;

(xi) To vote in such manner as they shall think fit any or all shares in any corporation or trust which shall be held as Trust Property, and for that purpose to give proxies, to any person or persons or to one or more of their number to vote, waive any notice or otherwise act in respect of any such shares;

(xii) To deposit any funds of the Trust in any bank or trust company, and to delegate to any one or more of their number, or to any other person or persons, the power to, deposit, withdraw or draw checks on any funds of the Trust;

(xiii) To maintain such offices and other places of business as they shall deem necessary or proper and to engage in business in Massachusetts or elsewhere;

(xiv) To employ, appoint and remove such agents, managers, officers, board of managers, brokers, engineers, architects, employees, servants, assistants and counsel (which counsel may be a firm of which one or more of the Trustees are members) as they shall deem proper for the purchase, sale or management of the Trust Property, or any part or parts thereof, or for conducting the business of the Trust, and to define their respective duties and fix and pay their compensation, and the Trustees shall not be answerable for the acts and defaults of any such person. The Trustees may delegate to any such agent, manager, officer, board, broker, engineer, architect, employee, servant, assistant or counsel any or all of their powers (including discretionary powers, except that the power to join in amending, altering, adding to, terminating or changing this Declaration of Trust and the Trust hereby created shall not be delegated) all for such times and purposes as they shall deem proper. Without hereby limiting the generality of the foregoing, the Trustees may designate from their number a Chairman, a Treasurer, a Secretary, and such other officers as they deem fit, and may from time to time designate one or more of their own number to be the Managing Trustee or Managing Trustees, for the management and administration of the Trust Property and the business of the Trust, or any part or parts thereof;

(xv) To operate, care for, maintain, repair and replace the common areas and facilities of the Condominium;

(xvi) To conduct litigation and be subject to suit as to any course of action involving the Condominium or arising out of the enforcement of the provisions of the Master Deed, this Declaration of Trust, the Rules and Regulations and said Chapter 183A; and

(xvii) Generally, in all matters not herein otherwise specified, to do each and every thing necessary, suitable, convenient or proper for the accomplishment of any of the purposes of the Trust or the Master Deed or incidental to the powers herein or in said Chapter 183A, and to do any and all acts, including the execution of any instruments, which by their performance thereof shall be shown to be in their judgment for the best interests of the Unit Owners.

Section 5.2. Maintenance and Repair of Units

The Unit Owners shall be responsible for the proper maintenance and repair of their respective Units and the windows, doors, decks and porches associated with their Units and the maintenance, repair and replacement of utility fixtures therein

serving the same. A Unit Owner's obligation to maintain and repair his or her Unit shall include, without limitation, the obligation to maintain and repair and replace, if necessary, the following: any refrigerator, stove, dishwasher, disposal or other similar appliance within the Unit; interior finish walls, ceilings and floors; window glass, window frames, and window trim; doors, door frames and door trim (including frames and trim of doors leading to common corridors, decks or porches); plumbing and sanitary waste fixtures and fixtures for water and other utilities; electrical fixtures and outlets; all wires, pipes, drains, conduits and equipment for heat and air conditioning, water, sewerage, electric power and light, telephone and any other utility services which are contained in and serve such Unit. If any one Trustee shall at any time in his reasonable judgment determine that the condition of a Unit or any fixtures, furnishings, facility or equipment therein is hazardous to any Unit or the occupants thereof, the Trustee shall in writing request the Unit Owner to perform the needed maintenance, repair or replacement or to correct the hazardous condition, and in case such work shall not have been commenced within thirty (30) days (or such reasonable shorter period in case of emergency as the Trustee shall determine) of such request and thereafter diligently brought to completion, the Trustee shall be entitled to have the work performed for the account of such Unit Owner whose Unit is in need of work and to enter upon and have access to such Unit for such purpose, and the cost of such work as is reasonably necessary therefor shall be added to the common expenses assessed to such Unit Owner's Unit and shall constitute a lien upon such Unit under Section 6 of said Chapter 183A and the Unit Owner thereof shall be personally liable therefor.

Section 5.3. Maintenance, Repair and Replacement of Common Areas and Facilities and Assessment of Common Expenses Thereof

The Trustees shall be responsible for the proper maintenance, repair and replacement of the common areas and facilities of the Condominium except as otherwise provided in Section 6 of the Master Deed and Section 5.2 above (see Section 5.5 hereof for the specific provisions dealing with repairs and replacement necessitated by casualty loss or damage by eminent domain) and such may be done through the Managing Agent, as hereinafter provided, and both Trustees or the Managing Agent or any other person(s) who may be so designated by the Trustees may approve payment of vouchers for such work, and the expenses of such maintenance, repair and replacement shall be assessed to the Unit Owners as common expenses of the Condominium at such times and in such amounts as provided in Section 5.4 hereof.

Section 5.4. Common Expenses, Profits and Funds; Lien for Common Expenses; Real Estate Taxes

A. The Unit Owners shall be liable for common expenses and entitled to common profits of the Condominium in proportion to

their respective percentages of beneficial interest as set forth in the Master Deed. The Trustees may at any time or times distribute such common profits among the Unit Owners in such proportions. The Trustees shall, to such extent as they deem advisable, set aside common funds of the Condominium as reserve or contingent funds, and may use the funds so set aside for reduction of indebtedness or any other lawful capital purpose, or subject to the provisions of the following paragraph B of this Section 5.4., for repair, rebuilding or restoration of the Trust Property or for improvements thereto, and the funds so set aside shall not be deemed to be common profits available for distribution. Notwithstanding the foregoing, so long as the Declarant is entitled to designate and remove Trustees pursuant to Section 3.1(C) of this Declaration of Trust, the Trustees shall not use any of the working capital funds to defray the Declarant's expenses, reserve contributions or construction costs or to make up any of Declarant's budget deficits. Each Unit Owner, at the time of taking title to his or her Unit from the Declarant, shall make a deposit with the Trustees for purposes of providing working capital equal to one-sixth (1/6) of the estimated or established common charges assessed to such Unit by the Trustees for the then current year.

B. At least thirty (30) days prior to the commencement of each fiscal year of this Trust, the Trustees shall estimate the common expenses of the Condominium expected to be incurred during such fiscal year together with a reasonable provision for a fund for contingencies and reserves to cover maintenance, repairs and replacements to the common areas, and after taking into account any undistributed common profits from prior years, shall determine the assessment to be made for such fiscal year. The Trustees shall promptly render statements to the Unit Owners (including the Declarant with respect to Units still owned by the Declarant) for their respective shares of such assessment according to their percentages of interest in the common areas and facilities, and such statements shall, unless otherwise provided therein, be due and payable in monthly installments each equal to one-twelfth (1/12) of such assessment.

C. In the event that the Trustees shall determine during any fiscal year that the assessments so made are less than the expenses actually incurred, or in the reasonable opinion of the Trustees likely to be incurred, the Trustees shall make a supplemental assessment or assessments and render statements therefor to Unit Owners in the manner aforesaid, and such statements shall be payable and take effect as aforesaid. The Trustees may in their discretion provide for payments of such statements (for either original or supplemental assessments) in monthly or other installments. The amount of each such statement shall be a personal liability of the Unit Owner so assessed and, together with the amount of any late charges which may accrue thereon as provided below, shall constitute a lien on the Unit of the Unit Owner assessed pursuant to provisions of Section 6 of said Chapter 183A. Any amount owed to the Trustees under this

Declaration of Trust, including without limitation monthly payments of common expenses, not paid within seven (7) days of the due date for such amount shall carry a late charge equal to the greater of (a) Fifteen Dollars (\$15.00) or (b) the total accrued interest on such amount from the due date to the date of payment calculated on the basis of two percent (2%) per annum in excess of the First National Bank of Boston's (or any successor to such Bank) prime interest rate at the time such payment was due; however, if such late charge should ever be construed by a court of competent jurisdiction to be an interest charge which is subject to usury or other limitations on interest and the calculations for late charges set forth above would result in amounts which exceed such limitations, then such late charge shall be the greatest amount possible (calculated as provided above) which does not exceed such limitations. A Unit Owner may be charged the full amount of any attorney's fees incurred by the Trustees if the Trustees retain an attorney to collect any monies owed by such Unit Owner to the Trustees; further, the amount of such attorney's fees shall be a personal liability of such Unit Owner, shall be added to the common expenses or fees assessed to such Unit Owner's Unit and shall constitute a lien in favor of the Trustees against such Unit under Section 6 of said Chapter 183A.

D. A lien for common expenses or fees assessed to each Unit shall arise against such Unit on the assessment date thereof, shall be in the full amount of the assessment as of the assessment date, even though such common expenses or fees may be payable in installments, together with accrued late charges thereon and any expenses associated with collection (including, without limitation, attorney's fees incurred by the Trustees) and shall have priority over all other encumbrances, except for (1) a mortgage granted to an institutional lender and recorded prior to such assessment date to the extent the lien for such common expenses or fees may not be made superior to any such mortgage, and (2) municipal tax liens and other governmental liens to the extent the lien for such common expenses or fees may not be made superior to any such governmental liens. The Trustees shall have the power and duty to collect common expenses or fees not paid when due together with accrued late charges thereon and expenses associated with collection, by proceedings to recover the same in any court having jurisdiction and by foreclosure pursuant to Section 6 of said Chapter 183A, or by either. The Trustees shall have the power, on behalf of all of the Unit Owners to purchase any Unit sold at the foreclosure of a lien for common expenses or fees, or at the foreclosure of any lien superior thereto, provided that the Trustees shall not make any bid at such foreclosure in excess of the amount of the liens on said Unit for common expenses or fees plus the amount of all liens, if any, superior thereto which are to be paid out of the purchase price at such foreclosure without the prior authorizing vote of Unit Owners holding in the aggregate fifty percent (50%) of the beneficial interest hereunder. Proceedings brought to recover a judgment for unpaid common expenses or fees shall not constitute

a waiver of the lien securing such common expenses or fees or the right to foreclose the same.

E. The Trustees shall also have the power, as an alternative to foreclosing the lien for common expenses or fees by sale, to accept a deed from any Unit Owner of his or her Unit on such terms and conditions as the Trustees shall prescribe. However, the Trustees shall not pay any consideration for such deed or grant in excess of the amount of all common expenses or fees then assessed to such Unit and then due and payable. Further, such deed may only be accepted free and clear of all encumbrances other than the liens for unpaid common expenses or fees and real estate taxes, which in each case may then be assessed but not then due and payable. The Trustees' acceptance of such deed shall terminate such Unit Owner's liability for all such common expenses or fees then assessed to such Unit (including all installments thereof to accrue thereafter) and shall constitute payment in full of all common expenses or fees then assessed to such Unit and then due and payable.

F. No Unit Owner shall file an application for abatement of real estate taxes without the approval of the Trustees, which approval shall not be unreasonably withheld.

G. During such time that real estate taxes (including betterment assessments) are assessed against the real property described in the Master Deed as one (or more) tax parcels, but not as condominium units, the Trustees may collect and expend, in the same manner as common expenses and shared expenses, all amounts necessary to pay such real estate taxes and betterment assessments for the common benefit. Each Unit shall be assessed for a share of such real estate taxes in proportion to its beneficial interest in the common areas and facilities of the Condominium. The Trustees may collect the funds for such real estate taxes in lump sums or installments, using such procedure, including installment payments in advance, as they in their sole discretion shall determine and they may charge any penalties for late payment imposed by the municipal authorities to the Unit Owners responsible therefor.

H. The Trustees shall expend common funds only for common expenses and fees and lawful purposes permitted hereby and by provisions of said Chapter 183A.

Section 5.5. Rebuilding and Restoration in the Event of Casualty; Improvements; Eminent Domain

A. In the event of any casualty loss to the Condominium, the Trustees shall determine in their reasonable discretion whether or not such loss exceeds ten percent (10%) of the value of the Condominium immediately prior to the casualty, and shall notify all Unit Owners of such determination. If such loss as so determined does not exceed ten percent (10%) of such value, the Trustees shall proceed with the necessary repairs, rebuilding or

restoration in the manner provided in paragraph (a) of Section 17 of said Chapter 183A or any successor to said section dealing with the repair, rebuilding or restoration of a condominium after a casualty or other type of loss. If such loss as so determined does exceed ten percent (10%) of such value, the Trustees shall forthwith submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) by the Unit Owners authorizing the Trustees to proceed with the necessary repair, rebuilding or restoration, and (b) a copy of the provisions of said Section 17 of Chapter 183A or the successor to said section, as the case may be; and the Trustees shall thereafter proceed in accordance with, and take such further action as they may in their discretion deem advisable in order to implement, the provisions of paragraph (b) of said Section 17 of Chapter 183A or the relevant provisions of the successor to said section, as the case may be. The Trustees shall represent the Unit Owners in any proceedings, negotiations, settlements or agreements in connection with any casualty loss to the Condominium.

B. If and whenever the Trustees shall propose to make any improvement to the common areas, facilities or elements of the Condominium, or shall be requested in writing by Unit Owners holding in the aggregate fifty percent (50%) or more of the beneficial interest in the Trust to make any such improvement, the Trustees shall submit to all Unit Owners (a) a form of agreement (which may be in several counterparts) specifying the improvement or improvements proposed to be made and the estimated cost thereof, and authorizing the Trustees to proceed to make the same, and (b) a copy of the provisions of Section 18 of said Chapter 183A as in force on the date hereof. Upon the receipt by the Trustees of such agreement signed by Unit Owners holding in the aggregate one hundred percent (100%) of the beneficial interest, the Trustees shall proceed to make the improvement or improvements specified in such agreement and, in accordance with said Section 18 of Chapter 183A, shall charge the cost of such improvement or improvements to all the Unit Owners. The agreement so circulated may also provide for separate agreement by the Unit Owners that if Unit Owners holding in the aggregate fifty percent (50%) of the beneficial interest so consent, the Trustees shall proceed to make such improvement or improvements and shall charge the cost of the same only to the Unit Owners so consenting.

C. (1) If any public or quasi-public authority initiates a proceeding to take any portion of the Condominium under the power of eminent domain, the Trustees shall notify all Unit Owners and all mortgagees of record promptly after the commencement of such proceeding. In the event of either a total or partial taking under the powers of eminent domain, the Unit Owners shall be represented by the Trust acting through the Trustees in all proceedings, negotiations, settlements or agreements relating to such taking.

(2) If the Trustees, in their reasonable discretion, determine that a portion of the Condominium representing less than ten percent (10%) of the then total value of the Condominium has been taken, then the Trustees shall use the proceeds of such award to repair and restore the Condominium to the greatest extent possible; however, any portion of the award which is attributable to the direct or consequential damage to any particular Unit which cannot be so restored or repaired, or any portion of such award which remains after repair or restoration of such Unit is completed, shall be distributed to the owner of such Unit or the mortgagee of such Unit as provided in C.(5) below.

(3) If more than ten percent (10%) in value of the Condominium is taken under the power of eminent domain, the taking shall be treated as a "casualty loss," and the provisions of Section 17 of said Chapter 183A shall apply.

(4) Where one or more Units have been substantially altered or rendered unuseable as a result of a partial taking (whether involving more or less than ten percent (10%) of the value of the Condominium), and the Unit Owners vote to restore and continue the Condominium pursuant to the provisions of Section 17 of said Chapter 183A (or the Condominium is automatically continued pursuant to C.(2) above), the Trustees shall have the authority to acquire the remaining portions of such Units for such price as the Trustees shall determine, provided that any Unit Owner of such remaining portion of the Unit who does not agree with such determination may apply to the Superior Court (on such notice to the Trustees as the court shall direct) for an order directing the purchase of such remaining portion at the fair market value thereof as approved by the court. Where, as a result of a partial taking (whether involving more or less than ten percent (10%) of the value of the Condominium), any Unit is decreased in size or where the number of Units is decreased by a partial taking, then the Trustees may make such provisions for realignment of the undivided interests of the Unit Owners in the common areas and facilities as shall be just and equitable.

(5) In the event of a partial taking affecting any portion of the Condominium, the award (to the extent not applied to the repair of the Condominium) shall be allocated to the Unit Owners according to their respective undivided interests in the common areas and facilities, except that any portion of the award which is attributable to the direct or consequential damages suffered by particular Units shall be payable to the Unit Owners of such Units or their mortgagees, as their interests may appear, and not to the Unit Owners generally.

(6) In the case of a total taking of all Units and the common areas and facilities, the entire award shall be payable to the Trustees to be distributed to the Unit Owners in accordance

with their respective undivided interests in the common areas and facilities, or their respective mortgagees, as their interests may appear.

(7) No vote or consent required of a Unit Owner pursuant to this Section shall be deemed effective without the written consent of the holder of any mortgage of record on the Unit in question. No provision herein shall be deemed to give a Unit Owner or any other party priority over any rights of the holder of the first mortgage (if any) on such Unit Owner's Unit pursuant to such mortgage in the case of distribution to such Unit Owner of condemnation awards for taking of Units and/or the other common areas and facilities. Mortgagees of Units will be entitled to priority with respect to any awards distributed to their mortgagors.

Section 5.6. Rules, Regulations, Restrictions and Requirements; Enforcement

A. The rules and regulations set forth in Exhibit A attached hereto shall initially govern the operation of the Condominium (such rules and regulations together with any new, amended or substituted rules and regulations hereinafter called the "Rules and Regulations"). To the extent that any of the Rules and Regulations set forth any restrictions or requirements affecting the use and maintenance of the Units, the Rules and Regulations shall be deemed to be a part of the By-laws of the Condominium for all purposes (including without limitation, by-laws within the meaning of Section 11(e) of said Chapter 183A); moreover, the Rules and Regulations are not intended to constitute, and should not be construed to be, mere administrative rules and regulations within the meaning of Section 11(d) of said Chapter 183A. Subject to Section 16(h) of the Master Deed, the Trustees, with the consent in writing of Unit Owners entitled in the aggregate to one hundred percent (100%) of the beneficial interest hereunder, may hereafter, at any time and from time to time, amend or rescind the Rules and Regulations or adopt new Rules and Regulations governing the details of the operation and use of the common areas and facilities, and setting forth such restrictions on and requirements respecting the use and maintenance of the Units and the use of the common areas and facilities as are consistent with provisions of the Master Deed and are designed to prevent unreasonable interference with the use by the Unit Owners of their respective Units and of the common areas and facilities.

B. In the event the Trustees are required to retain an attorney in order to compel compliance by a Unit Owner with the Rules and Regulations, the By-laws or any other provision of this Declaration of Trust or the Master Deed, the full amount of such attorney's fees may be charged against such Unit Owner and, if so, the amount of such fees shall be a personal liability of such

Unit Owner, shall be added to the common expenses assessed to such Unit Owner's Unit and shall constitute a lien in favor of the Trustees against such Unit Owner's Unit under Section 6 of said Chapter 183A.

Section 5.7. Managing Agent

The Trustees may, at their discretion, appoint a Manager or Managing Agent to administer the Condominium, who shall perform such duties in the administration, management and operation of the Condominium, including the incurring of expenses, the making of disbursements and the keeping of accounts, as the Trustees shall from time to time determine. Such Manager or Managing Agent may appoint, employ and remove such additional agents, attorneys, accountants or employees as the Trustees may from time to time determine. Such Manager or Managing Agent shall secure a fidelity bond for its personnel. If possible, such fidelity bond shall provide that ten (10) days written notice must be given to the Trustees and to the holder of each first mortgage on a Unit in the Condominium before such fidelity bond may be cancelled or substantially modified for any reason.

Section 5.8. Insurance

A. The Trustees shall obtain and maintain, to the extent available, master policies of casualty and physical damage insurance covering the Condominium for the benefit and protection of the Trustees and all of the Unit Owners naming as the named insureds, and with loss proceeds payable to the Trustees hereunder, or one or more of the Trustees hereunder designated by them as Insurance Trustees, for all of the Unit Owners collectively of the Condominium and their respective mortgagees, as their interests may appear, pursuant to such condominium form of insurance as may from time to time be customarily used in Massachusetts (but in all events to be multi-peril-type coverage providing, as a minimum, fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage lenders for projects similar in construction, location and use), such insurance to cover the buildings and all other insurable improvements forming part of the common areas and facilities, including all service machinery, apparatus, equipment and installations in the common areas and facilities, and including also all such portions and elements of and appurtenances to the Units as the Unit Owners are responsible for under Section 5.2 and any addition to any Unit as is permitted by the Master Deed, but not including the furniture, furnishings or other personal property of the Unit Owners. Such insurance shall, insofar as practicable, be maintained in an amount not less than one hundred percent (100%) of the replacement value of the insured property for insurance purposes, as determined by the Trustees (who shall review such value at least as often as annually), shall include a so-called "agreed amount endorsement" or its equivalent, and a so-called "inflation guard endorsement" or its equivalent, if available, and shall insure against (a)

loss or damage by fire and other hazards covered by the standard extended coverage endorsement and (b) such other hazards or risks as the Trustees from time to time in their discretion shall determine to be appropriate including, but not limited to, vandalism, malicious mischief, windstorm and water damage and federal flood hazards, so called. In addition, if there is a steam boiler in operation in connection with the Condominium, the Trustees shall obtain explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing, as a minimum, \$1,000,000 per accident per location.

B. All policies of casualty or physical damage insurance shall, insofar as practicable, provide: (a) that such policies may not be cancelled, terminated or substantially modified as to the amount of coverage or risks covered without at least thirty (30) days' written notice to the insureds (including any Listed Mortgagees); (b) that, notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement, such election may not be exercisable without the approval of the Trustees and may not be exercisable in any event if in conflict with the terms of this Trust; (c) for waiver of subrogation as to any claims against the Trust, the Trustees, any agents or employees of the Trustees, the Unit Owners, and their respective employees, agents and guests; (d) for waivers of any defense based upon the conduct of any insured; (e) in substance and effect that the insurer shall not be entitled to contribution as against any casualty or property insurance which may be purchased separately by Unit Owners; (f) that such insurance shall not be prejudiced (i) by any act or neglect of any occupants or owners of the Units when such act or neglect is not within the control of the Trustees (or Unit Owners) collectively or (ii) by failure of the Trustees (or Unit Owners) collectively to comply with any warranty or condition with regard to any portion of the premises over which the Trustees (or Unit Owners) collectively have no control; and (g) that the insurer agrees that the "replacement cost" coverage shall not be jeopardized by the Trustees' compliance with the provisions of said Chapter 183A requiring that the Trustees obtain consent from the Unit Owners and their mortgagees to repair or restore the Condominium in the event of certain casualty losses.

C. The Trustees hereunder, or the Trustee(s) designated as Insurance Trustee or Trustees if such designation has been made as aforesaid, shall collect and receive all casualty loss insurance proceeds and shall hold, use, apply and disburse the same in accordance with applicable provisions of Section 5.5 and this Section 5.8.C. If repair and restoration is to be made pursuant to Section 5.5 hereof, all insurance loss proceeds shall be disbursed to defray the cost of repair and restoration of the damaged common areas and facilities and in one or more damaged Units. If there are insurance proceeds in excess of the cost of repairs and restoration, the Trustees shall add such excess proceeds to the Condominium reserve fund or, at the option of the

Trustees, distribute the same to the Unit Owners in proportion to their respective beneficial interests as set forth in the Master Deed, as the same may be amended from time to time, subject to the right of the mortgagee(s) of such Unit(s) to receive the same. With respect to losses covered by such insurance which affect portions or elements of a Unit, or of more than one Unit to substantially the same or to different extents, the proceeds relating thereto shall be used, applied and disbursed to or on behalf of the owner(s) of such Unit(s) by the Trustees in a fair and equitable manner, subject always to the prior right of any mortgagee of any such Unit which may be entitled to such proceeds if proceeds are distributed to the Unit Owner(s) affected rather than applied to the repair or restoration of the Unit(s) in question.

D. The Trustees shall also so obtain and maintain, to the extent available, master policies of insurance with respect to the common areas and facilities, for the benefit of the Trustees and all of the Unit Owners, for (a) comprehensive public liability, including personal injury coverage, which shall cover claims of any Unit Owner in the amount of at least \$500,000 per occurrence for personal injury and \$500,000 per occurrence for property damage and with cross liability endorsements to cover liability of any insured to other insureds, but such insurance shall not cover the liability of any Unit Owner as to claims arising out of incidents occurring within such Unit Owner's Unit, and it shall be the duty of each Unit Owner to maintain public liability insurance with respect to such claims for such Unit Owner's own protection; (b) workmen's compensation and employees' liability with respect to any manager, agent or employee of the Trust, but excluding any independent agent or manager who shall furnish to the Trustees a Certificate of Insurance if such liability is otherwise uninsured against, it being agreed that the Trustees may waive such requirement in any particular instance, at their discretion; and (c) such other risks as the Trustees in their discretion deem it appropriate to insure.

E. The public liability insurance maintained by the Trustees shall, insofar as obtainable and practicable: (a) cover and indemnify the Trustees, each maintenance employee of the Trustees, the managing agent or the manager, if any, and each Unit Owner against liability for all tort claims arising out of any of the Units or the common areas and facilities of the Condominium; (b) cover cross liability claims of each insured against each other insured; and (c) provide that such policies may not be cancelled, terminated or substantially modified as to the amount of coverage or risks covered without at least thirty (30) days' written notice to the insureds. In all events such public liability insurance shall provide that the insurer is precluded from denying the claim of a Unit Owner because of negligent acts of the Trustees or the Unit Owners and shall, so far as obtainable and practicable, include appropriate waivers of subrogation which will preclude the insurer from seeking subroga-

tion against any of the Trustees or Unit Owners. If possible, such public liability insurance shall provide for at least ten (10) days written notice to the Trustees before the insurer may cancel or substantially modify it, and for similar notice to be given to each holder of a first mortgage on a Unit in the Condominium.

F. The Trustees shall obtain and maintain fidelity bonds, if insofar as the Trustees deem appropriate, naming the Condominium Trust as obligee, to protect against dishonest acts on the part of anyone who either handles, or is responsible for, funds held or administered by the Condominium Trust, whether or not they receive compensation for their services. The management agent that handles funds for the Condominium Trust shall also be covered by its own fidelity bond, which shall provide at least the same coverage required of the Condominium Trust, and shall name the Condominium Trust as an obligee. Except for fidelity bonds that a management agent obtains for its personnel, the premiums for all other bonds shall be treated as a common expense by the Condominium Trust.

The fidelity bond shall cover the maximum funds that will be in the custody of the Condominium Trust or its management agent at any time while the bond is in force, provided, however, that in all events the fidelity bond coverage shall be at least equal to the sum of 3 months' assessments on all Units in the Condominium, plus the Condominium Trust's reserve funds.

Each such fidelity bond shall include a provision that requires at least 10 days' written notice to the Condominium Trust and (to the extent obtainable) to the holder of each first mortgage on a Unit before such bond can be cancelled or substantially modified for any reason.

G. The Trustees shall obtain and maintain directors' and officers' liability insurance covering the Trustees, officers and Unit Owners participating in the governance of the Condominium, if and insofar as the Trustees deem appropriate.

H. The Trustees shall also so obtain and maintain, to the extent available, such supplemental or other insurance (or fidelity bond) coverages as may from time to time be required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or any successor to either entity, and may obtain any other additional insurance which the Trustees deem insurance to be appropriate in their reasonable discretion.

I. The cost of all such insurance obtained and maintained by the Trustees pursuant to provisions of this Section 5.8 shall be a common expense of the Condominium.

J. Each Unit Owner shall have the right to carry other insurance for such Unit Owner's own benefit provided all such policies contain waivers of contribution and subrogation of

claims against the Trustees and all other Unit Owners and do not adversely affect or diminish any liability under any insurance obtained by the Trustees pursuant to the provisions of this Section 5.8. If any loss intended to be covered by insurance carried by the Trustees shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Unit Owner, such Unit Owner shall, without limiting or prejudicing other remedies of the Trustees, assign the proceeds of such insurance carried by it, to the extent of such reduction, to the Trustees for application to the same purposes as the reduced proceeds are to be applied.

Section 5.9. Acquisition of Units by Trustees; Financing Thereof

The Trustees may acquire for the benefit of all Unit Owners one or more Units; however, any acquisition of a Unit by the Trustees, whether at the foreclosure of a lien for common expenses or otherwise, shall, except as otherwise provided in Section 5.4.C, be made only with the prior approval of Unit Owners holding in the aggregate one hundred percent (100%) of the beneficial interest hereunder. Such acquisition may be made with funds appropriated from the working capital of the Trust, or from assessments to Unit Owners according to their respective beneficial interests hereunder, or by borrowing or assumption of existing borrowing, provided that such borrowing is secured only by a mortgage to an institutional lender on the Unit(s) so acquired, or by any combination of such three methods, consistent in any event with such prior approval.

Section 5.10. Meetings

A. The Trustees shall meet annually on the date of the annual meeting of the Unit Owners and at such meeting may elect a Chairman, Treasurer, Secretary and any other officers they deem expedient. Other meetings may be called by any Trustee, and in such other manner as the Trustees may establish, provided, however, that written notice of each meeting stating the place, day and hour thereof shall be given to each Trustee at least seven (7) days before such meeting. All such notices shall be either hand delivered or mailed certified mail, return receipt requested, to the home or business address of the Trustee in question as the same appears on the records of the Trust or if no such address appears on the records of the Trust, mailed to the offices of the law firm of Lane & Altman, 101 Federal Street, Boston, Massachusetts 02110 or such other law firm as the Trustees may designate from time to time to receive such notices; and any notice so delivered shall be conclusively deemed to have been received by the person(s) to whom such notice was sent. A majority of the number of Trustees then in office shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with such rules as the Trustees may adopt.

B. There shall be an annual meeting of the Unit Owners on the second Wednesday in October in each year at 8:00 P.M. at such reasonable place and time as may be designated by the Trustees by written notice given to the Unit Owners at least seven (7) days prior to the date so designated. Special meetings (including a meeting in lieu of a past annual meeting) of the Unit Owners may be called at any time by the Trustees and shall be called by them upon the written request of Unit Owners entitled in the aggregate to fifty percent (50%) or more of the beneficial interest hereunder. Written notice of any such meeting designating the place, day and hour thereof shall be given by the Trustees to the Unit Owners at least seven (7) days prior to the date so designated. The Trustees shall attend any meeting of Unit Owners, if requested in writing (delivered to the Trustees at least seven (7) days prior to such meeting) to do so by Unit Owners entitled to fifty percent (50%) or more of the beneficial interest hereunder.

C. Except as otherwise provided in this Declaration of Trust, the presence in person or by proxy of Unit Owners holding in the aggregate one hundred percent (100%) of the beneficial interest hereunder shall constitute a quorum at all meetings of the Unit Owners.

D. Except as otherwise provided in this Declaration of Trust or in said Chapter 183A, at any meeting of Unit Owners the vote of Unit Owners holding one hundred percent (100%) of the total beneficial interest represented (either in person or by proxy) shall be required to decide any matter presented at such meeting.

E. If any meeting of Unit Owners cannot be held because of the absence of a quorum, the Unit Owners who are present at such meeting may adjourn the meeting to a later time in an effort to achieve a quorum at such later time.

F. At any meeting of the Unit Owners, every Unit Owner may act in person, or by written proxy which (i) has been signed by such Unit Owner, (ii) is dated not more than six (6) months before the meeting, (iii) contains no terms inconsistent with the present exercise thereof and (iv) has been, or is at the meeting in question, filed with the Trustees. The designation of any proxy shall be revocable at any time prior to exercise thereof by written notice similarly filed. Any action required or permitted to be taken at any meeting of the Unit Owners may be taken without a meeting if the Unit Owners holding in the aggregate one hundred percent (100%) of the beneficial interest hereunder consent to the action in writing and the written consents are filed with the records of the proceedings of the Unit Owners. Such consents shall be treated for all purposes as a vote at a meeting.

Section 5.11. Notices to Unit Owners

A. Every notice to any Unit Owner required under the provisions hereof, or which may be deemed by the Trustees necessary or desirable in connection with the execution of the Trust created hereby or which may be ordered in any judicial proceeding shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by one or more of the Trustees to such Unit Owner by mailing it, postage prepaid, and addressed to such Unit Owner at his address as it appears upon the records of the Trustees or if no address appears, by delivery or mailing the same to such Unit, in either case, at least seven (7) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given. Delivery of such notice in such manner shall be conclusively deemed to have been received by the person(s) to whom such notice was sent. Attendance of a Unit Owner at a meeting shall constitute a waiver of notice of such meeting if such Unit Owner attends the meeting without protesting prior thereto or at the meeting's commencement the lack of notice to such Unit Owner. Notice may also be waived by written instrument signed by any Unit Owner waiving such notice and neither the business to be transacted at, nor the purpose of, any meeting of Unit Owners need be specified in any such written waiver of notice.

B. On each transfer of an ownership interest of a Unit, the person or persons acquiring the interest shall have the duty to give the Trustees written notice of their interest in the Unit and of the correct name of all the owners of the Unit. Unless otherwise required by law, records of ownership maintained by the Trustees shall be conclusive for all purposes, including without limitation, for all notices to Unit Owners, of Unit Owners' meetings and for amendments to the Master Deed and the Trust. The Trustees may, but shall have no obligation to, examine the records of the Registry of Deeds to determine ownership of Units and all actions, including without limitation amendments to the Trust or to the Master Deed, shall be valid if taken by the requisite number of Unit Owners as they appear on the Trustees' records of ownership.

Section 5.12. Inspection of Books; Reports to Unit Owners

Books, accounts, financial statements and records of the Trustees shall be open to inspection to any one or more of the Trustees, the Unit Owners, or to holders, insurers and guarantors of first mortgages on Units in the Condominium at all reasonable times. The Trustees shall maintain current copies of this Declaration of Trust, the Master Deed and any other constituent document of the Condominium which shall also be open to inspection to any one or more of the Trustees, the Unit Owners, or to holders, insurers and guarantors of first mortgages on Units in the Condominium. The Trustees shall, as soon as reasonably possible after the close of each fiscal year, or oftener if convenient to them, submit to the Unit Owners a report of the

operations of the Trustees for such year which shall include financial statements certified by the Trustees in such summary form and in only such detail as the Trustees shall deem proper. Any person who has been furnished with such report and shall have failed to object thereto by notice in writing to the Trustees given by registered mail within a period of one month of the date of the receipt by him shall be deemed to have assented thereto.

Section 5.13. Checks, Notes, Drafts and Other Instruments

Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Trustees or of the Trust must be signed by two Trustees.

Section 5.14. Fiscal Year

The fiscal year of the Trust shall be the year ending with the last day of December or such other date as may from time to time be determined by the Trustees.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF THIRD PARTIES
DEALING WITH THE TRUSTEES

Section 6.1. Reliance of Third Parties

No purchaser, mortgagee, lender or other person dealing with the Trustees as they then appear of record in the Registry of Deeds shall be bound to ascertain or inquire further as to the persons who are then Trustees hereunder, or be affected by any notice, implied or actual, otherwise than by a certificate thereof, and such record or certificate shall be conclusive evidence of the personnel of the Trustees and of any changes therein. The receipts of the Trustees, or any one or more of them, for monies paid or things delivered to them (or him or her) shall be effectual discharges therefrom to the persons paying or delivering the same and no person from whom the Trustees, or any one or more of them, shall receive any money, property or other credit shall be required to see to the application thereof. No purchaser, mortgagee, lender or other person dealing with the Trustees or with any real or personal property which then is or formerly was Trust Property shall be bound to ascertain or inquire as to the existence or occurrence of any event or purpose in or for which a sale, mortgage, pledge or charge is herein authorized or directed, or otherwise as to the purpose or regularity of any of the acts of the Trustees, or any one or more of them, purporting to be done in pursuance of any of the provisions or powers herein contained, or as to the regularity of the resignation or appointment of any Trustee, and any instrument of appointment of a new Trustee or resignation of an old Trustee purporting to be executed by the Trustees, Unit Owners, or other persons herein required to execute the same, shall be conclusive

evidence in favor of any such purchaser or other person dealing with the Trustees of the matters therein recited relating to such discharge, resignation or appointment or the occasion thereof.

Section 6.2. No Recourse Against Trustees

No recourse shall at any time be had under or upon any note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees or by any agent or employee of the Trustees, or by reason of anything done or omitted to be done by or on behalf of them or any of them, against the Trustees individually or against any such agent or employee, or against any beneficiary, either directly or indirectly, by legal or equitable proceedings, or by virtue of any suit or otherwise, and all persons extending credit to, contracting with or having any claim against the trustees, shall look only to the trust property for payment under such contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from the trustees, so that neither the trustees nor the beneficiaries, present or future, shall be personally liable therefor; provided, however, that nothing herein contained shall be deemed to limit or impair the liability of the unit owners under the provisions of Section 3.8 of Article III hereof or under the provisions of said Chapter 183A.

Section 6.3. Instruments Subject to Trust Terms

Every note, bond, contract, order, instrument, certificate, undertaking, obligation, covenant or agreement, whether oral or written, made, issued or executed by the Trustees, or by any agent or employee of the Trustees, shall be deemed to have been entered into subject to the terms, conditions, provisions, and restrictions hereof, whether or not express reference shall have been made to this Declaration of Trust.

Section 6.4. Certificate by Trustees

This Declaration of Trust and any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by the Trustees or any one of them which it may be deemed desirable to record shall be recorded with the Registry of Deeds and such record shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof; and all persons dealing in any manner whatsoever with the Trustees, the Trust Property or any beneficiary hereunder shall be held to have notice of any alteration or amendment of this Declaration of Trust, or change of Trustee or Trustees, when the same shall be recorded with the Registry of Deeds. Any certificate signed by two (2) Trustees in office at the time (or only one (1) Trustee if there is only one at the time) setting forth as facts any matters affecting the Trust, including statements as to who are the beneficiaries, as to what

action has been taken by the beneficiaries, and as to matters determining the authority of the Trustees to do any act, when duly acknowledged and recorded with the Registry of Deeds, shall be conclusive evidence as to the existence of such alleged facts in favor of all third persons, including the Trustees, acting in reliance thereon. Any certificate executed by any Trustee hereunder, or by a majority of the Trustees hereunder, setting forth the existence of any facts, the existence of which is necessary to authorize the execution of any instrument or the taking of any action by such Trustee or majority, as the case may be, shall, as to all persons acting in good faith in reliance thereon, be conclusive evidence of the truth of the statements made in such certificate and of the existence of the facts therein set forth.

Section 6.5. Certificate Concerning Common Expenses

Notwithstanding any other provisions of this Article VI or this Declaration of Trust, any certificate setting forth the amount of unpaid common expenses or fees assessed against any Unit as provided by Section 6(d) of said Chapter 183A shall be conclusive evidence of the facts stated therein if signed by any one of the Trustees then in office, except that a 6(d) certificate signed by a single Trustee shall have no effect if such Trustee is the owner of the Unit in question. The Trustees shall provide such certificate promptly upon request.

ARTICLE VII

MORTGAGES

Section 7.1. Notice to Trustees

A Unit Owner who mortgages his or her Unit by an instrument duly recorded with the Registry of Deeds, or the mortgagee of such Unit, shall notify the Trustees of the name and address of the mortgagee of such Unit and on request of the Trustees shall file a conformed copy of the mortgage with the Trustees. Such a mortgage is referred to herein as a "Listed Mortgage" and the holder of such a mortgage is referred to herein as a "Listed Mortgagee." A Listed Mortgage shall remain such until the Trustees shall have received written notice from the Listed Mortgagee thereof, or other evidence satisfactory to the Trustees, of the recording of a discharge thereof with the Registry of Deeds.

Section 7.2. Notice of Default

The Trustees, when giving notice to a Unit Owner of a default in paying any amount payable by such Owner to the Trustees or any other default, shall send a copy of such notice to any person or entity holding a Listed Mortgage covering the Unit affected by such default.

Section 7.3. Assignment by Unit Owner of Rights and Options

All rights of a Unit Owner, including without limitation rights to vote, to grant or withhold any consent and to exercise any other right or option, may be transferred or assigned in writing to, or restricted in favor of, any person or entity holding a Listed Mortgage. The Trustees shall be bound by any such assignment of transfer or restriction upon receipt of written notice of it.

Section 7.4. Limitation of Liability of Mortgagees

No mortgagee of a Unit shall be deemed to be a Unit Owner by reason of holding such mortgage unless and until such mortgagee shall have acquired indefeasible title to the Unit mortgaged to it by foreclosure or deed in lieu thereof.

ARTICLE VIII

AMENDMENTS AND TERMINATION

Section 8.1. Amendment of Trust

A. Subject to Section 16(h) of the Master Deed, the Trustees, with the consent in writing of Unit Owners entitled in the aggregate to one hundred percent (100%) of the beneficial interest hereunder, may, at any time and from time to time, amend, alter, add to or change this Declaration of Trust in any manner or to any extent, the Trustees first, however, being duly indemnified to their reasonable satisfaction against outstanding obligations and liabilities; provided always, however, that no such amendment, alteration, addition or change shall be valid or effective if (a) by virtue of such amendment, alteration, addition or change the percentage of beneficial interest hereunder of any Unit Owner would be altered or in any manner or to any extent whatsoever modified or affected without such Unit Owner's consent, so as to be different from the percentage of the individual interest of such Unit Owner in the common areas and facilities as set forth in the Master Deed, or (b) such amendment, alteration, addition or change would render the Trust contrary to or inconsistent with any requirements or provisions of said Chapter 183A. Any amendment, alteration, addition or change pursuant to the foregoing provisions of this Section shall become effective upon the recording with the Registry of Deeds of an instrument of amendment, alteration, addition or change, as the case may be, signed, sealed and acknowledged in the manner required in Massachusetts for the acknowledgment of deeds, by two (2) Trustees, if there be two (2) then in office (or one (1) Trustee if there be only one), setting forth in full the amendment, alteration, addition or change and reciting the consent of the Unit Owners herein required to consent thereto. Such instrument, so executed and recorded, shall be conclusive evidence of the existence of all facts and of compliance with all prerequi-

sites to the validity of such amendment, alteration, addition or change, whether stated in such instrument or not, upon all questions as to title or affecting the rights of third persons and for all other purposes.

Notwithstanding the foregoing, so long as the Declarant is the owner of one or more Units in the Condominium, no amendments to the By-Laws or this Trust may be adopted which could interfere with the construction, display, sale, lease, or other disposition of such Unit or Units, without the express written consent of the Declarant.

B. Notwithstanding any provision of this Declaration of Trust or the Master Deed to the contrary, the Declarant shall, so long as the Declarant is the owner of one or more Units in the Condominium have the absolute right to amend this Declaration of Trust from time to time to facilitate the financing of the purchase of a Unit, as requested by FHLMC, FNMA or any proposed first mortgagee, but only so far as necessary to conform the Condominium or the provisions of this Declaration of Trust to the rules, regulations, and guidelines of FNMA, FHLMC or any other similar entity which is or may become involved in the insurance or granting of mortgages, or the purchase of mortgages on the so-called "secondary market," such amendment to become effective when signed and acknowledged by the Declarant and recorded with the Registry of Deeds; provided, however, that in no event shall any such amendment adversely affect either the substantive rights of any Unit Owner to use and enjoy either his Unit or the common areas and facilities of the Condominium in any material way, and provided further that the Declarant shall provide the Trustees with the text of any such amendments and the recording information for any such amendments.

Section 8.2. Termination

The Trust hereby created shall terminate only upon the removal of the Condominium from the provisions of said Chapter 183A in accordance with the procedure therefor set forth in said Chapter.

Section 8.3. Disposition of Property on Termination

Upon the termination of the Trust, the Trustees may, subject to and in accordance with the provisions of said Chapter 183A, sell and convert into money the whole of the Trust Property, or any part or parts thereof, and, after paying or retiring all known liabilities and obligations of the Trustees and providing for indemnity against any other outstanding liabilities and obligations, shall divide the proceeds thereof among, and distribute in kind, at valuations made by them which shall be conclusive, all other property then held by them in trust hereunder, to the Unit Owners according to their respective interest hereunder, subject, however, to the rights of the holder(s) of any mortgages on any Unit in all instances. In making any sale under this

provision, the Trustees shall have power to sell by public auction or private contract and to buy in or rescind or vary any contract of sale and to resell without being answerable for loss and, for said purposes, to do all things, including the execution and delivery of instruments, as may by their performance thereof be shown to be in their judgment necessary or desirable in connection therewith. The powers of sale and all other powers herein given to the Trustees shall continue as to all property at any time remaining in their hands or ownership, even though all times herein fixed for distribution of Trust Property may have passed.

ARTICLE IX

CONSTRUCTION AND INTERPRETATION

In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, and words denoting males include females and words denoting persons include individuals, firms, associations, companies (joint stock or otherwise), trusts and corporations, unless a contrary intention is to be inferred from or required by the subject matter or context. The cover, title, headings of different parts hereof, the table of contents and the marginal notes, if any, are inserted only for convenience of reference and are not to be taken to be any part hereof or to control or affect the meaning, construction, interpretation or effect hereof. All the trusts, powers and provisions herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts. Unless the context otherwise indicates, words defined in said Chapter 183A shall have the same meaning herein.

In the event of any conflict between the numerical requirements of FNMA and the numerical requirements of FHLMC with respect to any action or non-action to be taken by the Trustees, or with respect to any other matter, the guideline with the greater numerical requirements shall control.

In the event of a disagreement between the Owners of the Units or between the Trustees as to any matter involving this Declaration of Trust, the Master Deed or the Condominium generally, either of the disagreeing parties may refer the matter to binding arbitration by sending written notice requesting arbitration to the other party, which notice shall name one arbitrator who shall be an attorney licensed to practice law in the Commonwealth of Massachusetts. Within fourteen (14) calendar days after receipt of such notice, the other party shall by written notice to the requesting party name a second arbitrator who shall likewise be an attorney licensed to practice law in the Commonwealth of Massachusetts, failing which, the first arbitrator appointed shall appoint such second arbitrator. If the two arbitrators thus appointed are unable within fourteen

(14) calendar days after the date of the appointment of the second arbitrator to be appointed, to agree upon a settlement disagreement, they shall then appoint an impartial third arbitrator within twenty (20) calendar days after the said date of appointment of the second arbitrator.

The third arbitrator need not be an attorney but shall be someone who is qualified by profession to deal with the matter in dispute. If the two arbitrators cannot agree on a third arbitrator and if they fail to act to appoint one within said twenty (20) day period, then either party may apply to the American Arbitration Association for the appointment of the third arbitrator. The third arbitrator shall within fourteen (14) calendar days after his or her appointment render a decision in the dispute.

The decision of the arbitrators, whether it be by agreement of the first two arbitrators or, failing which, by the decision of the third arbitrator, shall be conclusive and binding upon all parties to the dispute, and any such decision shall be enforceable by any court of competent jurisdiction. Each party shall pay for the fees and other costs of the arbitrator appointed by him or for him (should he fail to duly make the appointment), and the fees and costs of the third arbitrator shall be shared equally by the parties.

Except as otherwise herein provided, the arbitration shall be conducted in accordance with the rules then pertaining to the American Arbitration Association.

ARTICLE X

CORRECTION OF TYPOGRAPHICAL ERRORS AND OTHER ERRORS

If the Declarant determines that a typographical error, misnomer, inadvertent omission or any other error has been made in this Declaration of Trust or any amendment hereto, the Declarant shall have the right, and hereby reserves the right, to correct any such error by an instrument executed by the Declarant making reference to this Article X, and upon such instrument being recorded with the Registry of Deeds, such error shall be deemed to have been corrected as fully and with the same force and effect as if such error were not ever made. No such amendment, however, shall adversely affect any substantive rights or interests of any Unit Owner in his Unit or the common areas and facilities in any material way, without such Unit Owner's written consent.

IN WITNESS WHEREOF the said Beth A. Schofield and Mary Kowalski have hereunto set their hands and seals on the day and year first hereinabove set forth.

Beth A. Schofield, Trustee
Beth A. Schofield, Trustee

Mary Kowalski, Trustee
Mary Kowalski, Trustee

Wayland Housing Associates, Inc. hereby acknowledges it has appointed Beth A. Schofield as its nominee to serve as trustee of the Millbrook Affordable Housing Condominium Trust.

WAYLAND HOUSING ASSOCIATES,
INC.

By: [Signature]
Susan Weinstein, its
President

By: [Signature]
Robert Dolan, its Treasurer

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK

Millbrook, SS.

April 28, 1995

Then personally appeared the above-named Beth A. Schofield and acknowledged the foregoing instrument to be her free act and deed, before me

Thomas W. Thayer
Notary Public

11/22/96

My commission expires: 7/27/2001

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

April 26, 1995

Then personally appeared the above-named Mary Kowalski and acknowledged the foregoing instrument to be her free act and deed, before me

Thomas W. Shaver

Notary Public

My commission expires: 11/22/96

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

April 28, 1995

Then personally appeared the above named Susan Weinstein, President of Wayland Housing Associates, Inc., and acknowledged the foregoing instrument to be her free act and deed and also the free act and deed of Wayland Housing Associates, Inc., before me.

Maurice Powers

(Name)

Notary Public

My commission expires: 7/27/2001

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

April 28, 1995

Then personally appeared the above named Robert Dolan, Treasurer of Wayland Housing Associates, Inc., and acknowledged the foregoing instrument to be his free act and deed and also the free act and deed of Wayland Housing Associates, Inc., before me.

Maurice Powers

(Name)

Notary Public

My commission expires: 7/27/2001